

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE COMPLAINT FILED))	ORDER DISMISSING
BY BLACK HILLS FIBERCOM, L.L.C., RAPID))	COMPLAINT AND CLOSING
CITY, SOUTH DAKOTA, AGAINST QWEST))	DOCKET
CORPORATION REGARDING QWEST))	
CORPORATION'S FAILURE AND REFUSAL TO))	CT01-056
PAY BLACK HILLS FIBERCOM, L.L.C. FOR))	
ACCRUED MINUTES OF LOCAL/EAS TRAFFIC))	
INCURRED BY QWEST CORPORATION AND))	
BILLED BY BLACK HILLS FIBERCOM, L.L.C.))	

On December 7, 2001, the Public Utilities Commission (Commission) received a complaint filed by Black Hills FiberCom, L.L.C., Rapid City, South Dakota (Complainant), against Qwest Corporation (Qwest) regarding Qwest Corporation's Failure and Refusal to Pay Black Hills FiberCom, L.L.C. for Accrued Minutes of Local/EAS Traffic Incurred by Qwest Corporation and Billed by Black Hills FiberCom, L.L.C.

On December 10, 2001, the complaint was faxed to Qwest. Pursuant to ARSD 20:10:01:09, Qwest was notified that it must satisfy the complaint or file an answer in writing with the Commission by December 31, 2001. The Commission has not received an answer from Qwest to this complaint. On December 28, 2001, the Commission received a Motion to Dismiss, Memorandum of Law in Support of Motion to Dismiss and Affidavit of Larry Toll from Qwest. On January 17, 2002, the Commission received a Stipulation of Voluntary Dismissal signed by Complainant and Qwest.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 49-13, including 49-13-1 through 49-13-14, inclusive, and SDCL Chapter 49-31, including 49-31-3, 49-31-7, 49-31-7.1, 49-31-7.2, 49-31-7.3, 49-31-7.4, 49-31-10, 49-31-11, 49-31-15, 49-31-18, 49-31-19, 49-31-38, 49-31-38.1, 49-31-38.2, 49-31-38.3, and ARSD Chapter 20:10:01 .

On January 24, 2002, at a regularly scheduled meeting, the Commission considered this matter. Upon recommendation of Commission Staff, the Commission voted to dismiss the complaint and close the docket. It is therefore

ORDERED, that the complaint shall be dismissed and the docket closed.

Dated at Pierre, South Dakota, this 31st day of January, 2002.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By: _____

Date: _____

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

JAMES A. BURG, Chairman

PAM NELSON, Commissioner

ROBERT K. SAHR, Commissioner

